

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

KYLE JOHNSON,

Defendant.

Protective Order

21 Cr. 256 (KPF)

Upon the application of the United States of America, with the consent of the undersigned defendant and his counsel, and the defendant having requested discovery under Fed. R. Crim. P. 16, the Court hereby finds and orders as follows,

1. **Disclosure Material.** The Government will make disclosure to defense counsel of documents, objects and information, pursuant to Federal Rule of Criminal Procedure 16, 18 U.S.C. § 3500, and the Government's general obligation to produce exculpatory and impeachment material in criminal cases, which will be referred to herein as "AEO Material." The AEO Material may include material that would impede, if prematurely disclosed, ongoing, unrelated investigations and litigation and is not authorized to be disclosed to the public or disclosed beyond that which is necessary for the defense of this criminal case.

2. **Facilitation of Discovery.** The entry of this protective order will permit the Government to produce expeditiously the AEO Material without further litigation. It will also afford the defense prompt access to those materials, which will facilitate the preparation of the defense.

3. **Good Cause.** There is good cause for entry of the protective order set forth herein.

Accordingly, it is hereby Ordered:

4. AEO Material is designated as Attorney's Eyes Only, and therefore, may be maintained only by defense counsel and any paralegal or investigator employed by the defense, and may not be disseminated to any other person, including the defendant. AEO Material shall be used by the defense solely for purposes of defending this action.

5. The Government may authorize, in writing, disclosure of AEO Material beyond that otherwise permitted by this Order without further Order of this Court.

6. This Order does not prevent the disclosure of any AEO Material in any motion, hearing, or trial held in this action, or to any judge or magistrate judge, for purposes of this action. However, AEO Material pertinent to any motion before the Court should initially be filed under seal, absent consent of the Government or Order of the Court. All filings should comply with the privacy protection provisions of Fed. R. Crim. P. 49.1.

7. The Attorney's Eyes Only designation shall apply to the AEO material for a period of 60 days from the date of this Order, after which time the parties may seek an extension of time on consent or the Government may apply to the Court to extend the time of the designation.

Return or Destruction of Material

8. Except for AEO Material that has been made part of the record of this case, the defense shall return to the Government or securely destroy or delete all AEO Material within 30 days of the expiration of the period for direct appeal from any post-conviction challenge in the above-captioned case; the period of direct appeal from any order dismissing any of the charges in the above-captioned case; or the granting of any motion made on behalf of the Government dismissing any charges in the above-captioned case, whichever date is later.

9. The defense shall provide a copy of this Order to any paralegal or investigator employed by the defense to whom the defense has disclosed AEO Material. All such persons

shall be subject to the terms of this Order. Defense counsel shall maintain a record of what information has been disclosed to which such persons.

Retention of Jurisdiction

10. The provisions of this order shall not terminate at the conclusion of this criminal prosecution and the Court will retain jurisdiction to enforce this Order following termination of the case.

AGREED AND CONSENTED TO:

AUDREY STRAUSS
United States Attorney

by: Jason M. Swergold
Jason M. Swergold
Assistant United States Attorney

Date: 8/3/21

Johnnie Woluewich
Johnnie Woluewich, Esq.
Counsel for Kyle Johnson

Date: 8-2-21

This confidentiality agreement does not bind the Court or any of its personnel. The Court can modify this stipulation at any time.

Date: August 4, 2021
New York, New York

SO ORDERED.

Katherine Polk Failla

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE